

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

RICARDO BREWER,

Plaintiff,

v.

C.A. No.: 7:21-cv-210

LUZ M. GARCIA, D/B/A A&G FIELD SERVICES,

Defendant.

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COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, RICARDO BREWER (hereinafter sometimes referred to as “Plaintiff”), by and through his undersigned counsel, hereby sues Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES (hereinafter sometimes referred to as “Defendant”), and in support thereof states as follows:

INTRODUCTION

1. This is an action by Plaintiff against his employer for unpaid wages pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. § 201, *et seq.* Plaintiff seeks damages for unpaid overtime, liquidated damages, and a reasonable attorney’s fee and costs.

JURISDICTION

2. This claim is properly before this Court pursuant to 28 U.S.C. § 1331, since this claim arises under federal law, and by the private right of action conferred

in 29 U.S.C. § 216(b).

VENUE

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) because Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, has offices Ector County, Texas.

THE PARTIES

4. Plaintiff, RICARDO BREWER, is an individual residing in Hot Springs, Arkansas.

5. Plaintiff, RICARDO BREWER, was employed by Defendant from June 7, 2021, to July 4, 2021, as a truck driver, paid at the rate of \$100.00 per load. Plaintiff's primary duty was to drive an end-dump truck. Plaintiff primarily haul oil cuttings solely within the state of Texas.

6. Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, is an individual and maintains offices in Ector County, Texas.

7. Defendant, LUZ M. GARCIA, D/B/A A&G FIELD SERVICES, primarily operates a trucking business and is an employer as defined by 29 U.S.C. § 203(d).

8. Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, (1) hired and fired the employees, (2) supervised and controlled employee work

schedules or conditions of employment, (3) determined the rate and method of payment, and (4) maintained employment records.

9. Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, has employees subject to the provisions of 29 U.S.C. § 206 in the facility where Plaintiff was employed.

10. At all times material to this complaint, Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, employed two or more employees and had an annual dollar volume of sales or business done of at least \$500,000.00.

11. At all times material to this complaint, Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, was an enterprise engaged in interstate commerce, operating a business engaged in commerce or in the production of goods for commerce as defined by § 3(r) and 3(s) of the Act, 29 U.S.C. §§ 203(r)-(s).

12. At all times material to this Complaint, Defendant was Plaintiff's employer, and as a matter of economic reality, Plaintiff was dependent upon Defendant for his employment.

13. Plaintiff was individually engaged in commerce and produced goods for commerce and their work was directly and vitally related to the functioning of Defendant's business activities. Specifically, Plaintiff performed work relating to the production of oil and gas products for interstate commerce.

**VIOLATION OF THE OVERTIME PROVISIONS OF
THE FAIR LABOR STANDARDS ACT**

14. Plaintiff 1) occupied a position as a truck driver; 2) did not hold a position considered as exempt under the FLSA; and, 3) was paid on a by the load basis.

15. Defendant required Plaintiff to work in excess of 40 hours in a workweek.

16. Plaintiff was not paid for his overtime work in accordance with the FLSA.

17. Throughout the employment of Plaintiff, Defendant repeatedly and willfully violated Sections 7 and 15 of the Fair Labor Standards Act by failing to compensate Plaintiff at a rate not less than one and one-half times his regular rate of pay for each hour worked in excess of 40 in a workweek.

18. Specifically, Plaintiff was never paid any overtime for the work performed for Defendant that was in excess of 40 hours in a workweek.

19. The work schedules for the Plaintiff required him to work in excess of 40 hours in a workweek on a regular and recurring basis during numerous workweeks.

20. Plaintiff estimates that he worked as many as 90 hours in each workweek while employed by the Defendant.

21. Defendant's policy of not properly paying overtime is company-wide

and was willful.

22. Defendant either knew about or showed reckless disregard for the matter of whether his conduct was prohibited by the FLSA and failed to act diligently with regard to his obligations as an employer under the FLSA.

23. Defendant failed to act reasonably to comply with the FLSA, and so Plaintiff is entitled to an award of liquidated damages in an equal amount as the amount of unpaid overtime pay pursuant to 29 U.S.C. § 216(b).

24. The acts described in the above paragraphs violate the Fair Labor Standards Act, which prohibits the denial of overtime compensation for hours worked in excess of 40 per workweek.

25. As a result of Defendant's unlawful conduct, Plaintiff is entitled to actual and compensatory damages, including the amount of overtime which was not paid that should have been paid.

26. Plaintiff is entitled to an award of reasonable and necessary attorneys' fees, costs, expert fees, mediator fees and out-of-pocket expenses incurred by bringing this action pursuant to 29 U.S.C. § 216(b) and Rule 54(d) of the Federal Rules of Civil Procedure.

WHEREFORE, Plaintiff, RICARDO BREWER, demands Judgment against Defendant, LUZ M. GARCIA, d/b/a A&G FIELD SERVICES, for the following:

- a. Awarding Plaintiff compensatory damages, service awards, attorneys'

- fees and litigation expenses as provided by law;
- b. Awarding Plaintiff pre-judgment, moratory interest as provided by law, should liquidated damages not be awarded;
 - c. Awarding Plaintiff liquidated damages and/or statutory penalties as provided by law;
 - d. Awarding Plaintiff such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff, RICARDO BREWER, demand a jury trial on all issues so triable.

Respectfully submitted this November 5, 2021.

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